

E-002/CI-93-6 ORDER CONSOLIDATING DOCKETS AND REQUIRING FURTHER
FILINGS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of an
Investigation into Establishing
a Bidding Process to Select
Resources to Meet the Future
Capacity Needs of Northern
States Power Company

ISSUE DATE: December 9, 1993

DOCKET NO. E-002/CI-93-6

In the Matter of Northern States
Power Company's Application for
Resource Plan Approval 1994-2008

DOCKET NO. E-002/RP-93-630

ORDER CONSOLIDATING DOCKETS AND
REQUIRING FURTHER FILINGS

PROCEDURAL HISTORY

I. Proceedings to Date

On January 12, 1993 the Commission issued its ORDER REQUIRING BIDDING PROPOSAL in the first docket listed above, the "bidding docket." That Order opened an inquiry into the role competitive bidding should play in Northern States Power Company's acquisition of future capacity. Subsequent Orders in the bidding docket explained that the Commission intended to address process issues in the bidding docket and substantive issues in the second docket listed above, the "planning docket." The planning docket is the proceeding to examine the Company's 1994 integrated resource plan filing.

The Company filed the bidding proposal required under the first Order in the bidding docket and further information required under subsequent Orders. On August 23, 1993 the Company made a compliance filing under an Order issued July 9. Two parties, the Department of Public Service (the Department) and the Residential and Small Business Utilities Division of the Attorney General's Office (RUD-OAG), filed comments. The RUD-OAG alleged defects in the filing. The Department stated it would file substantive comments in the planning docket. Other parties previously active in the bidding docket and in the planning docket did not file comments. The Commission concluded these parties might be planning to comment in the planning docket, believing the issues were more substantive than procedural.

The compliance filing came before the Commission on November 10, 1993.

FINDINGS AND CONCLUSIONS

II. Dockets Consolidated

The Commission finds the original distinctions between the issues to be considered in the bidding docket and the issues to be considered in the planning docket have outlived their usefulness. The substantive and process issues remaining are intertwined and should be considered together. The Commission will therefore consolidate the two dockets.

III. Further Filings Required; Comment Periods Established

The Commission finds that the compliance filing at issue does not contain all the information necessary to evaluate the Company's bidding proposal. The Company will be required to include the following information in its response comments in the planning docket, due January 3, 1994.

A. Regulatory Review Procedures

The Commission's July 9 Order required the Company to "modify and resubmit the bidding proposal to include formal Commission review of the initial bid evaluation." The compliance filing failed to do this. The Company will be required to file a detailed proposal for regulatory review, including Commission review of the preparation of the "short list" of bidders considered for final contracts. The Company should include a proposed time line for Commission review and a proposal for involving other parties, especially state agency intervenors, in the review process.

B. Procedures for Ensuring Confidentiality

The Company's proposal allows it to compete with other bidders to supply itself with future capacity. The compliance filing contained a description of procedures the Company would use to ensure an arms-length transaction. Bids would be evaluated by an independent outside contractor; personnel in bidding and supply would be prohibited from exchanging information, etc. The filing did not address what internal security measures the Company would use to restrict access to documents and information relating to the bidding and supply processes. The Company will be required to address that issue in its next filing.

C. Size of Projects Subject to Bidding

The Company's original proposal required bidding for all capacity and energy purchases involving 50 or more megawatts. When parties challenged the 50 megawatt threshold and the Commission required an explanation, the Company lowered the threshold to 12 megawatts. The Company explained that 12 megawatt projects were the smallest projects for which certificates of need were required in any of the five states in which the Company operates.

The Commission is not convinced the same considerations apply in setting certificate of need thresholds and competitive bidding thresholds. The costs of competitive bidding, for example, are significant and should probably play a role in determining when bidding is required. The information on file does not explain whether and to what extent bidding costs were considered in setting either of the two thresholds. The Commission will therefore require the Company to file an explanation of its reasons for shifting from a 50 to a 12 megawatt threshold and to explain the role competitive bidding costs played in setting each threshold. If bidding costs were not a significant factor in setting these thresholds, the Company should file an analysis of the role those costs should play in setting a threshold.

D. Cost Separations

Under the Company's proposal an unregulated subdivision, NSP-Generation, will compete with other companies to supply future capacity to the regulated utility. Clearly, protecting ratepayers from subsidizing NSP-Generation is a major issue and a major challenge. This is not due to Company recalcitrance but to the inherent complexity of cost allocation and accounting procedures. The Commission will therefore require the Company to include in its next round of comments an explanation of its procedures for ensuring proper cost allocations.

E. Comment Periods Established

Under the resource planning rules, the Company and other parties will file final comments on or before January 3, 1994. Clearly, the additional information required under this Order merits analysis and comment by other parties, and basic fairness requires allowing the Company to respond to their comments. The Commission will vary the resource planning rules to accomplish these goals, finding that enforcing the rules' time lines would impose an excessive burden on all parties, allowing the additional comment periods would serve the public interest, and varying the rules' time lines would not conflict with any applicable legal standard. Minn. Rules, 7830.4400.

ORDER

1. Northern States Power Company's 1994 integrated resource plan docket, E-002/RP-93-630, and the docket established to investigate the role competitive bidding should play in its acquisition of future capacity, E-002/CI-93-6, are hereby consolidated.
2. The Company shall include in responsive comments due January 3, 1994 the information set forth in the text of this Order.

3. The comment periods set forth in the Commission's resource planning rules, Minn. Rules, part 7830.4400, are varied as follows:

- (a) All parties may file comments on the information required under this Order on or before January 31, 1994.

- (b) The Company may file responsive comments to parties' filings under paragraph (a) on or before February 15, 1993.

4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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